In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 61

HAROLD L. ICKES, SECRETARY OF THE INTERIOR, AND DAN H. WHEELER, DIRECTOR OF THE BITUMINOUS COAL DIVISION OF THE DEPARTMENT OF THE INTERIOR, PETITIONERS

v.

ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION TO REVERSE AND REMAND

The above-entitled cause presents the question whether respondent, a membership corporation of New York, some of whose members purchase bituminous coal, has legal capacity and standing to maintain a petition, under Section 6 (b) of the Bituminous Coal Act of 1937, for review of certain orders of the Secretary of the Interior and the Director of the Bituminous Coal Division

549842—43

which revised minimum prices applicable to the sale of bituminous coal. The court below, overruling a motion to dismiss, held that respondent was entitled to maintain its petition. Certiorari was granted on June 14, 1943.

The Bituminous Coal Act of 1937 (Act of April 26, 1937, c. 127, 50 Stat. 72, 15 U. S. C., Sec. 828, *et seq.*) as extended April 11, 1941, 55 Stat. 134, 15 U. S. C., Supp. I, Sec. 849 and amendment of April 24, 1943, P. L. 40, 78th Cong., 1st sess., c. 68, H. J. Res. 113 and amendment of May 21, 1943, P. L. 53, 78th Cong., 1st sess., c. 97, H. J. Res. 122, expired at 12:01 A. M. August 24, 1943. Minimum prices which had been established pursuant to the challenged orders became inoperative.

Accordingly, the Solicitor General, on behalf of Harold L. Ickes, Secretary of the Interior, moves the Court to reverse the order of the Circuit Court of Appeals for the Second Circuit entered March 3, 1943, and to remand the cause with directions to vacate its order and dismiss the cause for the reason that it has become moot by reason of the expiration of the Bituminous Coal Act of 1937. Compare *Brownlow* v. *Schwartz,* 261 U. S. 216, 218; *O'Ryan* v. *Mills Novelty Co.,* 292 U. S. 609.

CHARLES FAHY,
Solicitor General.

SEPTEMBER 1943.

U. S. GOVERNMENT PRINTING OFFICE: 1943